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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,633	12/15/2003	Michael H. Goff	FRA3320	2002

7590 12/17/2004
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EXAMINER

TIBBITS, PIA FLORENCE

ART UNIT PAPER NUMBER

2838

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,633	Applicant(s) GOFF, MICHAEL H.	
	Examiner Pia F Tibbits	Art Unit 2838	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/15/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the front wall. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because in fig.3 the power supply is shown as charging the (wall) plug outlet. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c))

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so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification. For example:

a) "electrical prongs 16 electrically coupled to the switch 14 which may be extended into a conventional electrical power outlet 7" is not correct since the prongs, not the switch, may be extended into a conventional electrical power outlet.

b) "An inverter 30 is electrically coupled to each of the charging ports 22. The inverter 30 is electrically coupled to the switch 14. The switch 14 may selectively open a circuit between the plug outlet 1 and the power supply 5 or the plug outlet 18 and the inverter 30" is not correct since, what the applicant calls a power supply is a plug, i.e., a device requiring power, not providing power.

4. The title of the invention "BATTERY CHARGER AND EMERGENCY POWER SUPPLY ASSEMBLY" is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed, and adequately supported by the disclosure: the specification describes "batteries 34 may be removed as needed for small electronics and then replaced in the compartments 32 for recharging. This provides the dual function of battery charger and emergency power supply". Applicant needs to explain how depleted batteries, in need of recharging, could provide an "emergency", uninterruptible power supply.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Evjen** [4409536] in view of **Hoffman** [3943423].

The recitation in the preamble, i.e., "An outlet and battery charger combination device for providing an emergency supply of electricity and for charging a plurality of batteries" has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where a claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *In re Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

Evjen discloses in figures 1-4 a battery charger comprising a housing 22; at least one electrical plug outlet/blades 26 and 28 being mounted in said housing; a battery charger 22 being mounted within said housing [see fig.1], said battery charger being electrically coupled to the power supply/battery 62, a plurality of compartments 60 [see figures 1 and 2] being mounted in said housing 22, each of said compartments being electrically coupled to said battery charger 22, each of said compartments 60 having a size and shape for selectively receiving a rechargeable battery 62, each of said compartments 60 having electrical contacts 30 therein for transferring an electrical current from said battery charger to the rechargeable battery; an inverter [no reference number; see column 3, lines 7-10] being positioned within said housing and electrically coupled to each of said compartments [see abstract; column 2, lines 51-64; column 3, lines 1-3, and 13-21]. Evjen does not disclose one electrical plug outlet being mounted in a front wall of said housing; a switch being positioned in said housing and electrically coupled to a power supply, the plug outlet being electrically coupled to said switch, the inverter being electrically coupled to said switch, and wherein said switch may selectively open a circuit between said plug outlet and said power supply or said plug outlet and said inverter.

Hoffman discloses a battery charging circuit 36, connected to battery 30 labeled E, via switch 38 having a movable contact 40 for selective engagement with the stationary contact 42 which is the

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"charge" position of the switch. When contact 40 is moved to engage stationary contact 44, the charger is taken out of the circuit and in this "operate" position of the switch, the battery 30 energizes a device [see column 4, lines 3-10]. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Evjen's apparatus and include a switch, as disclosed by Hoffman, in order to provide selective engagement and allow the battery to energize a device when it is not in a charge mode.

With regard to the limitation of having a switch being positioned in said housing and electrically coupled to a power supply, the plug outlet being electrically coupled to said switch, the inverter being electrically coupled to said switch, it is an inherent function of the battery charger disclosed by Evjen and Hoffman, and MPEP 2100 states that the disclosure of a limitation may be expressed, implicit or **inherent**.

With regard to the particular location of the electrical plug outlet, i.e., in a front wall, absent any criticality, is only considered to be an obvious modification as it has been held by the courts that there would be no invention in shifting the location of a structure of a device to another location if the operation of the device would not thereby be modified. *In re Japikse*, 86 USPQ 70.

As to claim 2, see remarks for claim 1 above.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (571) 272-2086. If unavailable, contact the Supervisory Patent Examiner Mike Sherry whose telephone number is (571) 272-2084. The Technology Center Fax number is (703) 872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFT

December 7, 2004

Pia Tibbits

Primary Patent Examiner

